IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 18825 of 2006(S)

OA.209/2006 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:

DAVIKA P.P., D/O.LATE K.K.VENUGOPAL,
AGED 42 YEARS, WORKING AS SALESMAN,
INTEGRATED FISHERIES PROJECT, COCHIN-682 016,
(RESIDING AT `LAKSHMI' AGK-TEMPLE ROAD,
CHANGAMPUZHA NAGAR P.O., EDAPPALLY, COCHIN-33).

BY ADV. SRI.P.V.MOHANAN

RESPONDENTS:
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1. DIRECTOR IN CHARGE, INTEGRATED
FISHERIES PROJECT, COCHIN-16.

2. DEPUTY DIRECTOR, PROCESSING AND
MARKETING, INTEGRATED FISHERIES PROJECT,
COCHIN-16.

3. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF AGRICULTURE,
DEPARTMENT OF ANIMAL HUSBANDRY AND DAIRYING
KRISHI BHAVAN, NEW DELHI.

4. SMT.LEKHA.R., SALESMAN,
MARKETING SECTION, INTEGRATED FISHERIES PROJECT,
COCHIN-16.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.18825/2006 - APPENDIX

PETITIONER's EXHIBITS:

EXT.P1 - TRUE COPY OF ORDER IN O.A. NO.209/2006 DT.24.4.2006

EXT.P2 - TRUE COPY OF ORIGINAL APPLICATION.

EXT.P3 - TRUE COPY OF REPLY STATEMENT DT. 10.4.2006

EXT.P4 - TRUE COPY OF REJOINDER DATED 21.4.2006

EXT.P5 - TRUE COPY OF SENIORITY LIST DT. 1.7.2006

EXT.P6 - TRUE COPY OF ORDER IN O.A.NO.756/99 DT.20.9.99

RESPONDENTS' EXHIBITS: NIL.

(TRUE COPY)

vaa PS TO JUDGE

J.B. KOSHY and T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No. 18825 of 2006 S

Dated this the 21st day of March, 2007

Judgment

Koshy, J.

Petitioner was appointed as a Salesman in Marketing Section in the Integrated Fisheries Project, Cochin. As per the terms of appointment, she is bound to be transferred to any place in India. Petitioner took long leave for three years to join her husband at Oman. When she came back, she was posted at Palai. She wanted to continue in the earlier post at Cochin. She filed O.A. No.401 of 2005 before the Central Administrative Tribunal. The Tribunal directed that transfer and posting should not be given in the midst of an academic year on the ground that her daughter was studying at Cochin. After the academic year was over, she was again posted to Palai. She refused to go there and took medical leave and thereafter challenged the transfer order. The tribunal found that as per the terms of the appointment order, there is no illegality in the impugned order. There is no mala fides also in the posting order. It is also further noticed that if a person goes on long

leave frequently, the competent authority has to make working arrangement. No mala fides are attributed against the respondent. Hence, posting the petitioner at Palai cannot be interfered with. It is submitted that fourth respondent is hailing from Ettumanoor and it is convenient for the fourth respondent for a posting at Palai. It is now further submitted that a vacancy is existing in Cochin. If that be so, petitioner may first obey the transfer order and thereafter either file a petition for mutual transfer with the fourth respondent or request for giving a posting at Cochin. If such a representation is filed, that should be considered. We see no grounds to interfere in the order of the Central Administrative Tribunal as there is no perverse finding or patent illegality so as to attract article 227 of the Constitution of India. The writ petition is dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No.18825/2006 S

Judgment

Dated:21st March, 2007